

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

DAVID A. STEBBINS

PLAINTIFF

V.

CASE NO. 3:17-CV-3092

**STATE OF ARKANSAS; ARKANSAS
REHABILITATION SERVICES; and AMY JONES**

DEFENDANTS

**AMENDED
CASE MANAGEMENT ORDER**

This Order amends and supersedes the Final Scheduling Order dated August 21, 2017 (Doc. 66). Revised case management deadlines are set forth below. In this regard, IT IS HEREBY ORDERED:

1. TRIAL SET DURING THE COURT'S APRIL 23, 2018 TRIAL TERM

The trial of this matter is scheduled for a **JURY TRIAL** in **FAYETTEVILLE, ARKANSAS**, at the call of the Court during a **One Week Trial Term which begins on APRIL 23, 2018, at 9:00 a.m.** The case may be called up and tried at any point during the term; however, a more precise starting date will be set as the trial term approaches. If for some reason the case is "bumped" because the Court cannot accommodate all trials set for the term, then the case will be re-set and tried during the **"back-up" trial date which is set for the week of JUNE 18, 2018, at 9:00 a.m.**

The case will be tried to an **eight (8)** person jury—unanimous verdict required. Counsel are directed to report to **the Fifth-floor Courtroom by no later than 8:30 a.m.** on the first day of trial unless otherwise notified.

2. FINAL PRE-TRIAL CONFERENCE

A Final Pre-Trial Conference shall be conducted pursuant to the provisions of Rule 16(e) on **APRIL 10, 2018, beginning at 9:00 a.m.**

3. EXPERT DISCLOSURES

The deadline to provide expert witness disclosures and written reports pursuant to Rule 26(a)(2) is **NOVEMBER 13, 2017**. The deadline to provide disclosures and reports of rebuttal experts (*i.e.* whose testimony will be offered solely to contradict or rebut the expert opinions offered by an opposing expert) is **DECEMBER 12, 2017**.

4. DISCOVERY

The discovery deadline is **DECEMBER 29, 2017**. The parties may conduct discovery beyond this date if all parties are in agreement to do so. To avoid later misunderstandings, such agreements should be reduced to a writing which describes the type, scope, and length of the extended period of discovery. That said, the Court will not resolve any disputes which may arise in the course of extended discovery.

All discovery requests must be propounded sufficiently in advance of the discovery deadline to allow for a timely response. Witnesses and exhibits not identified and produced in response to Rule 26(a)(1) Initial Disclosures, and/or in response to subsequent discovery requests, may not be used at trial except in extraordinary circumstances. The Court will not grant a continuance because a party does not have time in which to depose a lay or expert witness.

5. MOTIONS DEADLINES

(a) The deadline to file dispositive motions is **JANUARY 5, 2018**.

(b) If applicable, *Daubert* and related expert disqualification motions should be filed no later than **JANUARY 5, 2018**.

(c) Discovery Motions. Prior to filing a discovery motion the parties must (i) engage in a substantive good faith effort to amicably resolve the dispute without court intervention (to include at least one verbal discussion), and then, if necessary, (ii) the parties must schedule a conference call with the Court to discuss the dispute. In the event a discovery dispute cannot be informally resolved by the Court, then a formal motion must be filed sufficiently in advance of the discovery deadline to allow for a proper response time under the rules. The length of any such motions and supporting memorandum shall not exceed ten (10) pages in length (excluding exhibits). A response to a discovery motion, with the same page limitations, should be promptly filed.

(d) Motions in limine must be filed no earlier than **MARCH 16, 2018**, and not later than **MARCH 30, 2018**. Responses must be filed within seven (7) days thereafter. Motions submitted prior to **MARCH 16, 2018**, will be denied as premature. Motions submitted after **MARCH 30, 2018** may be denied solely on that ground. Briefs in Support of such motions and responses shall not exceed three (3) pages per ruling sought, except on leave of Court for good cause shown.

6. MEMORANDUM BRIEFS

Memorandum briefs filed in support or in response to a motion (other than a discovery motion) must not exceed twenty-five (25) pages in length, without leave of court and for good cause shown. Reply briefs, when permitted, must not exceed seven (7) pages in length.

7. PRETRIAL DISCLOSURE SHEET

Pursuant to the provisions of Rule 26(a)(3), the parties shall simultaneously file Pretrial Disclosures on **MARCH 13, 2018**, in a form consistent with the outline contained in Local Rule 26.2.

8. DEPOSITIONS TO BE USED AT TRIAL PURSUANT TO RULE 32¹

The proffering party must designate the pertinent portions of a deposition to be used as evidence at trial by **MARCH 13, 2018**. The opposing party must then provide notice of objections and/or counter-designations by **MARCH 20, 2018**. These designations and objections should not be filed with the Court, but rather exchanged by the parties. The parties shall then confer in good faith to resolve any objections to designations.

Any unresolved objections shall be made by a joint written motion filed no later than **MARCH 27, 2018**. Instructions for preparing the joint motion and the form to be used are posted on the Court's website at <http://www.arwd.uscourts.gov/judge-brooks-forms>. Objections will be resolved during the Final Pre-Trial Conference.

9. JURY INSTRUCTIONS

The parties must confer in advance regarding proposed jury instructions in an attempt to narrow areas of disagreement. The parties shall jointly submit a single agreed set of proposed instructions (clearly marked "AGREED") to Chambers on or before **APRIL 3, 2018**. Proposed verdict forms should be submitted as well. Counsel should use model instructions whenever possible from the Eighth Circuit, AML, or Federal Jury Practice and

¹Depositions to be used solely for impeachment are not contemplated by the requirements of this paragraph.

Instructions (5th Edition), as applicable, and should note the source and/or basis of the instruction at the end of each instruction.

If the parties cannot agree to a particular instruction(s), the party requesting a disputed instruction must submit it to the Court and to opposing counsel by the same date Agreed Instructions are due. Such instructions should be clearly marked as “[Plaintiff’s/Defendant’s] DISPUTED Instruction No. ____.” The legal basis for the instruction and brief description of the parties’ disagreement shall be provided with the instruction (either in the space below the form of the instruction or attached on a separate page).

The parties should follow the same process to submit “agreed” and “disputed” proposed verdict forms. Agreed and disputed instructions/verdict forms should be submitted electronically in WordPerfect or Word format to *tlbinfo@arwd.uscourts.gov*.

10. WITNESS AND EXHIBIT LISTS

Each party shall submit “final” witness and exhibit lists to the Court by no later than **APRIL 3, 2018**. The lists should be in the format as posted on the Court’s website at <http://www.arwd.uscourts.gov/judge-brooks-forms>. Witnesses shall be grouped together under headings indicating whether they “will be called” or merely “may be called” to testify.

Trial Exhibits must be identified, numbered, provided, and made available to opposing counsel in advance of the deadline. Counsel must then review and confer for the purpose of identifying any exhibits to which agreement or objections are contemplated. The final numbered exhibit list provided to the Court should therefore indicate—for each applicable exhibit—whether opposing counsel intends to “agree” (subject to proponent

laying proper foundation) or “object” to its introduction. Prior to trial, the parties shall further confer and identify which, if any, of the agreed exhibits may be stipulated into evidence *in mass* at the beginning of the trial. Please promptly notify the Court via email as to which exhibits will be received in this manner.

Each party shall provide a notebook of its final proposed exhibits(numbered, indexed, and tabbed) to Chambers by no later than **APRIL 10, 2018**.

11. DEADLINES

The deadlines set forth above are firm. Extensions and/or continuances will not be considered absent very compelling circumstances.

12. SUMMARY TABLE AND FORMS

A table summarizing the deadlines is attached. In the event of a discrepancy between this Order and the summary table, the deadline set forth in the Order is controlling. The forms are available for download on the Court’s public website - <http://www.arwd.uscourts.gov/judge-brooks-forms>.

IT IS SO ORDERED this 31st day of October, 2017.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE

DATES AND DEADLINES

HEARINGS AND TRIAL DATE	
FINAL PRE-TRIAL CONFERENCE	4/10/18
TRIAL DATE (One Week Trial Term beginning on)	4/23/18
"BACK-UP" TRIAL DATE	6/18/18
DISCOVERY	
EXPERT WITNESS DISCLOSURES/REPORTS	11/13/17
REBUTTAL EXPERT WITNESS DISCLOSURES/REPORTS	12/12/17
DISCOVERY DEADLINE	12/29/17
MOTIONS	
DISPOSITIVE MOTIONS	1/5/18
DAUBERT AND RELATED MOTIONS REGARDING EXPERT OPINION TESTIMONY (if applicable)	1/5/18
FINAL TRIAL PREPARATIONS	
PRETRIAL DISCLOSURES (per format of Local Rule 26.2)	3/13/18
MOTIONS IN LIMINE	3/30/18
DEPOSITION DESIGNATIONS (exchanged)	3/13/18
DEPOSITION COUNTER-DESIGNATIONS (exchanged)	3/20/18
JOINT MOTION TO EXCLUDE DEPOSITION TESTIMONY	3/27/18
JURY INSTRUCTIONS (submitted to the Court via email)	4/3/18
WITNESS AND EXHIBIT LISTS (submitted to the Court via email)	4/3/18
EXHIBITS NOTEBOOK (INDEXED AND TABBED) TO CHAMBERS	4/10/18